

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
April 25, 2017

A public hearing of the Zoning Board of Adjustment was held on Tuesday, April 25, 2017 at 6:30 PM in the Auditorium, 229 Main Street, at City Hall.

Members in attendance were:

Jack Currier, Chair  
JP Boucher, Vice Chair  
Mariellen MacKay, Clerk  
Kathy Vitale  
Steve Lionel

Carter Falk, AICP, Deputy Planning Manager/Zoning

Mr. Currier explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Currier explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Currier also explained procedures involving the timing light.

- 1. G Hurd & Son Construction, LLC (Owner) 36-36½ & "L" Russell Street (Sheet 93 Lots 87 & 88) requesting the following variances: 1) "L" Russell Street - for minimum lot area, 4,730 sq.ft existing, 6,000 sq.ft required; and, 2) 36-36½ Russell Street - for minimum lot area, 5,348 sq.ft existing, 12,445 sq.ft required - both requests to maintain existing two-family home and construct new single family home on "L" Russell Street. RB Zone, Ward 6. [TABLED FROM 4-11-17 MEETING]**

Voting on this case:

Jack Currier  
JP Boucher  
Mariellen MacKay  
Kathy Vitale  
Steve Lionel

Mr. Currier said that he is re-opening the Public Hearing on this case, which was tabled from the previous meeting.

Attorney Colin Jean, 64 McKean Street, Nashua, NH. Atty. Jean said that at the close of the previous meeting, there was some

concern about the two-family home and the driveway that existed there.

Atty. Jean put up a plan on the wall, and said that the driveway was of concern to some of the neighbors, and it pretty much is a two lane driveway until you get to the back of the property, and the existing garage will be knocked down. He said that the property will be used in the same capacity as it has been historically.

Atty. Jean said that this is a well-established neighborhood, and to have a duplex in this neighborhood, you'd have to raze three single-family residences. He said that the two-family home exists now, with a small, modest home next to it. He said that the spirit and intent of the ordinance is to maintain the character of the neighborhood, and in this established neighborhood, a pre-existing two-family home is more conforming than one house on three lots.

Atty. Jean said that for the vacant lot, when this neighborhood was developed, extended families lived there for generations. He said that the need for the variances are justified due to the nature and circumstances of the neighborhood. He said that the variances are for land area only, and the area has been the same, and the lot has been a vacant lot as long as anyone can remember, it's not as if it's use is being changed, it's just been an empty lot, waiting for development. He said that the way the proposed new house is designed, it will not need any variances for setbacks, the only one they'll need is for lot area. He said it will be in the character of the neighborhood.

Ms. Vitale asked about the existing structure, and when it's remodeled, if there will be any changes to the area outside the setbacks.

Atty. Jean said that the attached porch will be taken down, the garage is also being torn down.

Mr. Lionel said he understands that the driveway is two cars wide, and that there could be four cars, and there is a wider space at the end. He asked if this has been considered so that everyone can get in and out.

Atty. Jean said he believes so, and one of the reasons why the garage is being torn down is to create more open space in the

back yard, and the thought was to keep the area as green space to open it up in the yard. He said that there will be room in the back to turn around cars in the back yard, so none of the driveway should be blocked or anything.

Mr. Currier asked that when the porch is taken down, if the structure meets the side yard setback.

Atty. Jean said that his understanding is that it does, he has had this confirmed with City staff.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**MOTION** by Mr. Boucher to approve the variance application on behalf of the owner. He said that the variances are needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance. He said that it is an existing lot in an old neighborhood, an existing lot of record, and the Board finds that as the special condition.

Mr. Boucher said that the proposed use would be within the spirit and intent of the ordinance.

Mr. Boucher said it will not adversely affect property values of surrounding parcels, it is not contrary to the public interest, and that substantial justice is served.

**SECONDED** by Ms. Vitale.

**MOTION CARRIED 4-1** (Mr. Currier).

**2. David L. & Debra Christiansen (Owners) 19 Elliott Street (Sheet 65 Lot 103) requesting the following: 1) special exception to allow an accessory (in-law) dwelling unit; and**

**the following variances: 2) to encroach 3 feet into the 25 foot required front yard setback (on Wellington Street); and, 3) to exceed maximum area of accessory dwelling unit - 700 sq.ft permitted, 768 sq.ft proposed - all requests to remove existing garage and construct a new attached 3-car garage and accessory dwelling unit. RA Zone, Ward 3.**

Voting on this case:

Jack Currier  
JP Boucher  
Mariellen MacKay  
Kathy Vitale  
Steve Lionel

Deb Christiansen, 19 Elliott Street, Nashua, NH. Mrs. Christiansen said that they've lived here for 14 years, and her in-laws are getting elderly, and want them to move into the in-law unit. She said that they have a two-car garage, it will be removed to make a 3-car garage, and the back side of the garage will be the in-law apartment. She said that the 768 square foot size is the worst-case scenario, it may be smaller, as they're still in the beginning stages of designing it.

Mrs. MacKay asked if they've considered making the unit ADA accessible.

Mrs. Christiansen said that it will be ADA accessible.

Mrs. Christiansen said that the plan for the second story is to eventually finish it off and make it a master suite.

Charles Okorie, Architect. Mr. Okorie said everything that is shown now is conceptual. He said that this is what families should be doing, and is delighted to work on this project. He said that the architecture is such that the integrity of the home is still intact, and when all is done, it will all look as if it's always been there. He said this keeps the main house looking prominent, and the garage and addition is offset from the house. He said that his plan shows that it would be 750 square feet in size, even though the advertised language was 768. He said that the proposal will enhance the neighborhood.

Mr. Currier asked about the special conditions for the in-law apartment.

Mrs. Christiansen said that they will meet all of them.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

Mr. Boucher stated that the maximum driveway curb-cut is 24 feet, and it has to be greater than 50 feet from an intersection.

Mr. Currier asked to clarify the maximum curb-cut driveway width.

Mr. Falk said it is 24 feet, and beyond the front yard setback, it can get wider.

Discussion from the Board members all expressed support for the proposal, the architectural element and overall placement was deemed to be in character of the neighborhood.

**MOTION** by Mr. Currier to approve the variances, both taken together, on behalf of the owner as advertised. Mr. Currier said that the variances are needed to enable the applicant's use of the property, which is an accessory dwelling unit, and given the nature of the design, it would be within the spirit and intent of the ordinance and would look incidental to the single family use.

Mr. Currier said it will not adversely affect or lower the property values of surrounding parcels. He said that the request is not contrary to the public interest, and that substantial justice is served.

**SECONDED** by Mr. Lionel.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**MOTION** by Mr. Currier to approve the special exception on behalf of the owner as advertised. Mr. Currier said that the request is listed in the Table of Uses, Section 190-32.

Mr. Currier stated that the use will not create undue traffic congestion or unduly impair pedestrian safety. He said it will not overload public water, drainage or sewer or other municipal systems.

Mr. Currier said that all of the special conditions will be fulfilled, per testimony. He said that it will not impair the integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of the residents.

**SECONDED** by Mrs. MacKay.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**MISCELLANEOUS:**

**REHEARING REQUESTS:**

**122 Manchester Street:**

Mr. Currier said that it was tabled from the April 11, 2017 meeting. He said that the applicant, Attorney Sokul submitted an e-mail requesting that the request be postponed to the May 23<sup>rd</sup> meeting. He said that the Board will table the request to the May 23<sup>rd</sup> meeting.

**MOTION** by Mr. Currier to Table the rehearing request to the May 23, 2017 meeting.

**SECONDED** by Mr. Boucher.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**MINUTES:**

**3-28-17:**

**MOTION** by Mr. Currier to approve the minutes as presented, waive the reading, and place the minutes in the file.

**SECONDED** by Mr. Lionel.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**REGIONAL IMPACT:**

The Board determined that none of the cases at the next agenda will have Regional Impact.

**ADJOURNMENT:**

Mr. Currier called the meeting closed at 7:42 p.m.

Submitted by: Mrs. MacKay, Clerk.

CF - Taped Hearing